

**CITY OF LAKE STEVENS  
REGULAR CITY COUNCIL MEETING MINUTES**

Monday, December 10, 2012

Lake Stevens School District Educational Service Center (Admin. Bldg.)

12309 22<sup>nd</sup> Street N.E. Lake Stevens

CALL TO ORDER: 7:00 p.m. by Mayor Vern Little

COUNCILMEMBERS PRESENT: Todd Welch, Suzanne Quigley (arrived at 7:02 p.m.), Kathy Holder, Kim Daughtry, Marcus Tageant, Neal Dooley and John Spencer

COUNCILMEMBERS ABSENT:

STAFF MEMBERS PRESENT: City Administrator Jan Berg, City Attorney Cheryl Beyer, Planning Director Becky Ableman, Finance Director Barb Lowe, Public Works Director Mick Monken, Principal Planner Karen Watkins, Senior Planner Russ Wright, Human Resource Director Steve Edin, Interim Police Chief Dan Lorentzen, and City Clerk/Admin. Asst. Norma Scott

OTHERS: Samuel Low, Neal Karman, Bart Foutch, Marie King, Bryan Alldredge, Marcus Craven, Mark Flury

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**Guest Business.** Samuel Low, 8409 4<sup>th</sup> Place SE, commented on Public Safety Testing versus National Testing Network (NTN). NTN is less costly and other cities use their service. Earlier he spoke with Human Resources Director Edin and there was no consideration given to this company. Companies should have an opportunity to bid.

Councilmember Quigley arrived at 7:02 p.m.

Neal Karman, 1725 Vernon Road, commented the aerator has done an outstanding job and should look at further rather than phasing out.

**Consent Agenda.** Councilmember Spencer moved for approval of the Consent Agenda (A. Approve December 2012 vouchers [Payroll Direct Deposits 906564-906627 for \$177,575.57, Payroll Checks 34406 for \$2,380.98, Claims 34407-34473 for \$92,938.25, Electronic Funds Transfers 529-536 for \$141,062.62, Tax Deposit 11.30.12 for \$72,018.13 for total vouchers approved of \$485,975.55]; B. Approve November 26, 2012 regular Council meeting minutes; D. Authorize the Mayor to sign Amendment No. 2 to the State Purchasing contract; and D. Authorize the Mayor to sign two grant funding agreements with the State Transportation Improvement Board), seconded by Councilmember Tageant; motion carried unanimously. (7-0-0-0)

**Public Hearing in consideration of Ordinance No. 886, extending the moratorium temporarily restricting dispensaries and collective gardens relating to medical marijuana.** City Clerk Scott read the public hearing procedure which will be used for both hearings. Senior Planner Wright commented this is the fourth moratoria. It is in the best interest of the City to continue the moratoria to see how I 502 will impact marijuana laws. There is no progress federally and have not changed their position - they sent out a memo that marijuana is still an illegal drug under federal law. The intent is to come back to Council in March for further direction.

Public comment. Bart Foutch, 3218 127<sup>th</sup> Avenue NE, commented marijuana growers will cause more robberies and bring violent offenders into the community because of the large amount of money involved. He is concerned about weapons being used and reviewed the distance different ammunition travels, which travel much further than the 100 foot buffer being proposed.

Marie King, 2810 93<sup>rd</sup> Avenue, commented on the effects of marijuana.

Bryan Alldredge, 3121 127<sup>th</sup> Avenue, commented as follows: more time is needed for the Justice Department, must be careful not to lose federal grants, do not know enough about impact to the budget for police and training, need more time to review security requirements, health risks, and prepare educational materials.

Marcus Craven 11709 34<sup>th</sup> Street NE, commented on the need for a true medical option. It is better to move forward and place it under lock and key rather than have patients going to the black market.

MOTION: Councilmember Daughtry moved to close the public comment, seconded by Councilmember Spencer; motion carried unanimously. (7-0-0-0)

MOTION: Councilmember Spencer moved to close the public hearing, seconded by Councilmember Tageant; motion carried unanimously. (7-0-0-0)

MOTION: Councilmember Spencer moved for approval of Ordinance No. 886, extending the moratorium temporarily restricting dispensaries and collective gardens relating to medical marijuana, seconded by Councilmember Dooley; motion carried unanimously. (7-0-0-0)

**Public Hearing and consideration of first and final reading of Ordinance No. 884, 2012**

**Comprehensive Plan docket.** Principal Planner Watkins reported there are one map amendment proposed by a private party and eight City proposed text amendments. Ms. Watkins reviewed the eight criteria that must be met to grant the amendments and all have been met. Each amendment was reviewed. On November 7 Planning Commission recommended adoption.

Public comment. None

MOTION: Councilmember Dooley moved to close the public comment portion, seconded by Councilmember Spencer; motion carried unanimously. (7-0-0-0)

MOTION: Councilmember Welch moved to approve Ordinance 884, Comprehensive Plan docket, seconded by Councilmember Spencer; motion carried unanimously. (7-0-0-0)

**Closed record Public Hearing in consideration of first and final reading of Ordinance No. 885, PUD rezone.**

Mayor Little read the closed record hearing procedure and no objections to the Council hearing the rezone was expressed. Principal Planner Watkins reported Ordinance No. 884 approved the map amendment for this rezone. The rezone is from Public/Semi-Public to Urban Residential. This rezone would allow the property owner to sell the parcel and meet the residential area requirements. October 26 the Hearing Examiner recommended the rezone to be consistent with the surrounding parcels to the north, west, and south.

Mark Flury, representing the PUD, was present to field any questions.

MOTION: Councilmember Spencer moved to close the closed record public hearing, seconded by Councilmember Holder; motion carried unanimously. (7-0-0-0)

MOTION: Councilmember Spencer moved to approve Ordinance 885, PUD rezone, seconded by Councilmember Daughtry; motion carried unanimously. (7-0-0-0)

**Authorize the Mayor to sign the Public Safety Testing Agreement.** Human Resources Director Edin reported as follows: this is a renewal of the current agreement, for entry level candidates only, no increase in fees, and extends the current contract for an additional three years. National Testing Network (NTN) uses Frontline testing (video) which is off the shelf. The test is more situational which could be tailored to the East or West coast. Public Safety Testing is more customized and written for the Pacific Northwest. Police Commander Lorentzen commented he has worked with both services and Public Safety Testing is more in line with what we are looking for.

Councilmember Daughtry questioned why we would pay for something we may not use. Human Resources Director Edin responded both testers have a list of available candidates and replenish the list. If we did not have a contract and someone left tomorrow the list would not be available.

MOTION: Councilmember Dooley moved to authorize the Mayor to sign the Public Safety Testing agreement Addendum #1, seconded by Councilmember Quigley; motion carried unanimously. (7-0-0-0)

**Authorize lease of Lundeen Park office space to the Lake Stevens Chamber of Commerce.** City Administrator Berg noted the lease is for a small office space not being used currently. She and Public Works Director Monken have been working with Chamber on the terms. The Chamber would operate the City Visitor Information Center, install alarms, new door, paint exterior, and various other improvements in lieu of rent for 60 months. They would pay a fixed amount for electricity. The recommendation is to approve a lease pending legal approval.

Councilmember Daughtry recused himself since he is President of the Chamber.

Councilmember Quigley asked if there were any guidelines on how the Chamber would be representing the City. City Administrator Berg stated they are not technically representing the City and have not had a detailed conversation with them.

Councilmember Daughtry stated this is for the good of everyone including economic development and non-profits, and promotes tourism.

MOTION: Councilmember Tageant moved to authorize the Mayor to sign an agreement with the Lake Stevens Chamber of Commerce to use the Lundeen Park Facility as a Headquarter and to manage the Visitor Information Center once the contract is completed, seconded by Councilmember Welch; motion carried with Councilmember Daughtry recusing himself. (6-0-0-1)

**Approve Professional Services agreement with Strategies 360 for SR9 9 Coalition lobbying services.** City Administrator Berg commented the City of Marysville in the past took the lead in the agreement with Strategies 360 relating to transportation needs lobbying services.

Now we are taking our turn as lead agency. There will be a greater effort during the legislative session from January through April and smaller effort outside of session.

MOTION: Councilmember Spencer moved to authorize the Mayor to sign Professional Services Agreement with Strategies 360 for lobbying services, seconded by Councilmember Daughtry; motion carried unanimously. (7-0-0-0)

**Approve interlocal agreement with multiple cities for SR 9 Coalition lobbying services.**

City Administrator Berg mentioned this agreement involves the cities of Lake Stevens, Arlington, Marysville and Snohomish for shared services in the hiring of a lobbyist.

ACTION: Councilmember Spencer moved to authorize the Mayor to sign the Interlocal Agreement with our partners in the SR9 coalition, seconded Councilmember Tageant; motion carried unanimously. (7-0-0-0)

**Boards/Commission reappointments.** Mayor Little reviewed the reappointments to the Library, Arts, and Parks boards/commissions. He and Planning Commission Chair Linda Hoult will interview for the Planning Commission position vacated by Dean Franz.

MOTION: Councilmember Holder moved to authorize the Mayor to reappoint the people listed for the expiring term positions, seconded by Councilmember Spencer; motion carried unanimously. (7-0-0-0)

**Select City representative to the Snohomish Board of Health.** Mayor Little volunteered to attend temporarily with Councilmember Spencer considering the position over the next two weeks.

**Discussion: Phosphorus Management Plan.** Public Works Director Monken commented the question is how the phosphorus loading condition will be dealt with into the future. Most of phosphorus comes from lake internally (about 70%) with 30% from the surrounding watershed area. The aerator is nearing its life span. There was a major breakdown this year and parts are aging that need replacing. The County contributes 11%. We are spending about \$120,000/year. By using these funds for alum, we would have phosphorus controlled in about nine years. The aerator treats about 30% of the lake. The City does not need a special use permit for the alum. Recommendations are: apply moderate level of alum treatment; reduce external loading through education, regulations and annual monitoring; phase out the aerator; and monitor and review to determine success of actions and revise as needed. The cost is approximately \$200,000 to fix aerator to make it operational. Anticipate about \$300,000 to remove and dispose of the aerator but have not completed a bid process to see what the actual cost is. It will take about 4 months to make repairs to the aerator so it could be turned on in June.

Councilmember Spencer requested a cash flow analysis.

**Discussion: Sewer District audit report.** City Administrator Berg noted on November 19 the Sewer Utility Subcommittee received a two-hour report from Moss Adams. District staff began meeting to see how they are going to accomplish the audit report recommendations. The Commissioners plan on a retreat in January to make a work plan.

**Discussion: Council Retreat follow up – 20<sup>th</sup> Street SE Subarea Plan.** Planning Director Ableman reported they are talking to developers and implementing plans recently passed by

ordinance. Public Works Director Monken noted four key issues: construction phasing, design completion, right-of-way acquisition, and overhead to underground utility conversion. They are working on a plan to service the SW quadrant with sewer. Planning Director Ableman reported the City is seeking a letter of interest and a Statement of Qualifications from experienced firms in the development and execution of a marketing and business recruitment program, including communication strategies to recruit new retail, business and family-wage job employers. City Administrator Berg noted in January staff will come back with more information on 20<sup>th</sup> SE.

**Executive session:** Mayor Little called for an executive session on actual litigation and collective bargaining at 9:20 p.m. for twenty minutes with action to follow on collective bargaining. Mayor Little called for a three minute recess. The executive session began at 9:23 p.m. The executive session was extended ten additional minutes at 9:43 p.m. The public was notified of the extension by Human Resources Director Edin. The executive session ended at 9:54 p.m.

**MOTION:** Councilmember Spencer moved to approve the labor contract with the Teamsters for the year 2013, seconded by Councilmember Daughtry; motion carried unanimously. (7-0-0-0)

**Adjourn.** Councilmember Daughtry moved to adjourn at 9:55 p.m., seconded by Councilmember Dooley; motion carried unanimously. (7-0-0-0)



Vern Little, Mayor



Norma J. Scott, City Clerk/Admin. Asst.



## How the federal government will engage law breakers post-passage is still unknown. We need time for that communication to occur.

December 5, 2012 U.S. Attorney Jenny Durkan issued the following statement: "The Department of Justice is reviewing the legalization initiatives recently passed in Colorado and Washington State. The Department's responsibility to enforce the Controlled Substances Act remains unchanged. Neither States nor the Executive branch can nullify a statute passed by Congress. In enacting the Controlled Substances Act, Congress determined that marijuana is a Schedule I controlled substance. Regardless of any changes in state law, including the change that will go into effect on December 6th in Washington State, growing, selling or possessing any amount of marijuana remains illegal under federal law. Members of the public are also advised to remember that it remains against federal law to bring any amount of marijuana onto federal property, including all federal buildings, national parks and forests, military installations, and courthouses."

SOURCE: <http://news.yahoo.com/feds-remain-awol-public-pot-smoking-begins-111610927.html>

## We need time to estimate and prepare the city budget for additional costs associated with rollout.

"State and Local Government Law Enforcement Cost Assumptions - The state, counties and cities are anticipated to experience increased costs from additional driving while under the influence administrative actions, arrests, prosecutions and incarcerations. Data are not available to accurately predict the total amount of costs that will accrue to the state and local governments; however, some costs can be estimated. Known costs by state agency are estimated at \$2,754,000 over five fiscal years: The Washington State Patrol will incur costs estimated at \$2,118,000 for additional training to employees on marijuana impairment. County and city law enforcement agencies may also require additional training to employees on marijuana impairment, but the cost is indeterminate because the type of training and number of employees trained will be determined at the local level."

SOURCE: [http://www.ofm.wa.gov/initiatives/2012/502\\_fiscal\\_impact.pdf](http://www.ofm.wa.gov/initiatives/2012/502_fiscal_impact.pdf)

## First Responders need time to review policies and procedures.

There is significant case history for electrical fires caused by marijuana grow operations and there are unique risks to our first responders associated with exposure to molds and other hazards commonly found at grow locations. The Fire Department should have time to consult with other departments and fully understand the unique dangers facing responders before the city lets the drug producers power up. High wattage lights, electronic ballasts and 24 hour heavy fans use a lot of electricity.

Dec 9, 2012 YAKIMA, Wash. -- Firefighters blamed an illegal marijuana operation for starting a basement fire in Yakima on Saturday. It happened on the 1600 Block of Browne Avenue. Yakima Fire said marijuana grow operations can often overload a building's electrical system causing the risk of a fire. With weed now legal in Washington, rescuers expected to see more marijuana-related fires. "Grow operations have a much higher chance of catching fire than a normal house. Up to 40 times more likely," said Hans Solie from Yakima Fire Department. Firefighters said health hazards are a concern. Mold and mildew often develop in illegal growing operations.

SOURCE: <http://www.kimatv.com/news/local/More-marijuana-more-fires-182761961.html>

San Francisco: "Park Police Station Lt. Mike Caplan, who was on the scene, said the fire was being investigated as arson after a substantial" marijuana operation was found in the attic unit. The residents had apparently bypassed PG&E meters to use electricity, which can cause a fire hazard. "There's a lot of electrical up there that wouldn't normally be up there," Gonzalez said. Such hazards are common in San Francisco, where police continue to bust grow operations. Although the Upper Haight is known for its counterculture and marijuana-smoking past, Caplan said this type of incident doesn't happen often in the neighborhood.

SOURCE: <http://www.sfexaminer.com/local/crime/2012/12/slideshow-upper-haight-neighborhood-fire-reveals-marijuana-grow-op>

## We need time to weight the potential forfeiture of federal dollars for local projects, such as we received for the roundabout.

Below are two examples of the types of federal funding that may be lost. The city should conduct a review and analyze the potential budget impacts, if any, should we lose and federal dollars based on our drug growing zones.

"State and local agencies are recipients of a variety of federal funds under mutual cooperation agreements with federal agencies to reduce drug trafficking and drug production in the United States. It is assumed that the state would no longer meet the requirements of a marijuana eradication grant between the Washington State Patrol and the U.S. Department of Justice, Drug Enforcement Administration, resulting in an estimated state revenue loss of \$368,000 in FY 2014 (the estimated amount remaining of a \$1.5 million grant on the effective date of the initiative). Other grants between the Washington State Patrol and the Office of National Drug Control Policy would also be at risk. Portions of these grants are passed through to local agencies. "

SOURCE: [http://www.ofm.wa.gov/initiatives/2012/502\\_fiscal\\_impact.pdf](http://www.ofm.wa.gov/initiatives/2012/502_fiscal_impact.pdf)

University of Washington warns students - The following letter was sent to all University of Washington Faculty and Staff on 12/03/2012 [emphasis added]:

From: Office of the Vice President for Student Life <[stulife@uw.edu](mailto:stulife@uw.edu)>  
To:  
Sent: Monday, December 3, 2012 3:56 PM  
Subject: Update on Initiative 502 - Use and Possession of Marijuana

Dear Students:

As most of you I presume already know, State Initiative 502 (I-502) - legalizing, under state law, the possession of a small quantity of marijuana -- was adopted in the November 2012 general election and takes effect December 6, 2012. I-502 revised state law regarding the regulation, taxation and criminal and civil penalties for the production, distribution and possession of marijuana. While I-502 decriminalized the possession and use of small quantities of marijuana for those 21 and over, it is important to note that under federal law, the possession and use of even small amounts of marijuana remain a federal crime. Though voters in the state passed the Initiative, possessing and using marijuana on or in any University facilities will remain against the law.

As a recipient of federal funds, such as financial aid and federal grants and contracts, the University of Washington must comply with the Safe & Drug Free Schools and Communities Act and the Drug-Free Workplace Act. Compliance requires maintaining a drug-free campus. If the University does not comply with federal laws and regulations on marijuana possession and use on campus, it risks losing federal funds. Accordingly the passage of I-502 will not change current University of Washington policies prohibiting production, distribution, possession or use of marijuana on University property or during University-sponsored activities. (see: <http://www.washington.edu/admin/rules/policies/APS/13.07.html>). A violation of these policies may lead to sanctions under the student conduct code, the general code of conduct or the University rules applicable to faculty and staff. *more...*

Eric S. Godfrey  
Vice President and Vice Provost for Student Life

SOURCE: Email sent from University of Washington to undisclosed recipients.

Respectfully,

Bryan Alldredge

December 10, 2012

Re: Medical Marijuana / Cannabis Regulations

Dear City Council,

On November 26<sup>th</sup>, 2012, Mr. Bryan Alldredge presented a letter to the City Council regarding the city's proposed regulations for marijuana collective gardens. In that letter, many very important questions were brought up that need to have definitive answers prior to moving forward. The last paragraph of that letter touched very briefly on the criminal aspect of the collective gardens. I would like to elaborate on that paragraph.

Mr. Alldredge correctly pointed out that the growing, distribution, and selling of marijuana still remains illegal under federal law. Because of that, no federally insured banking institution is allowed to take in money from any company whose funds are generated from the sale of illegal narcotics. That includes marijuana. Other financial institutions face the real possibility of being charged with money laundering if they accept the same funds. Therefore, along with the previously mentioned "large amounts of marijuana," you can expect large amounts of cash to be present at the same location. This is another aspect of the business that will be very attractive to criminals, especially when robberies are taken into account.

Now, there is the question, "Does that really happen?" That is a fair question. If you Google "Robbery" and "Grow Op" in the same sentence, you get over ten pages of examples of grow ops getting robbed. One of the first is one in which a person lays out their plan to drive around, locate a grow, and rob it. Discussion includes what weapons to use, what body armor to wear, and when to rob it. Some other examples, and these are just headlines; "Man killed while robbing legal marijuana grow house", "Attempted Robbery at Marijuana grow house ends in death", and in the December 7<sup>th</sup> Seattle Times, just three days ago, "Two killed at Puyallup home over pot crop." It should be noted that in the Puyallup instance, the home had cameras and a security system that were both active.

With the passage of Initiative 502, and the legalization of marijuana possession, the problem of smuggling marijuana over the border will most likely decrease significantly. After all, why would someone take the risk of smuggling it when you could just grow it here? It is projected that the marijuana business in Washington will grow to over 1 billion dollars a year. For anyone having trouble wrapping their minds around that number, it is a 1, followed by 9 zeros. This is all money that is going to be taken out of the smugglers pockets. Do not think that those smugglers will sit idly by while their profits vanish. As an example, a man was convicted in a case where four men broke into a marijuana grow op, beat its owner with brass knuckles, and held him captive. In 2001, the same man took over another grow op and forced the owner to work for him and tell him about other grow ops in the area. This is very similar to how the Hell's Angeles are known to operate, not to mention the Mexican cartels.

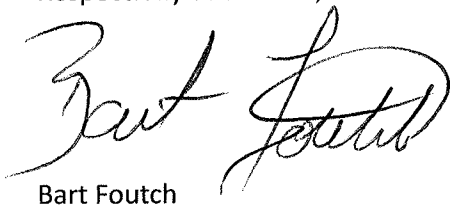


Of particular concern to me are the weapons that will be used to commit these crimes. The most likely weapons to be used would be hand guns, but the most common rifles in the US are the AK47 and the AR15 platforms. A .22 caliber pistol is accurate and lethal out to 50 yards. That puts it within the 100 to 500 foot buffer that was suggested in the regulations. A 9mm, .40 caliber, or .45 caliber bullet is lethal out to more than four times that distance and will penetrate multiple walls in standard home construction. The AK47 fires a .30 caliber bullet at over 2300 fps and has an effective lethal range of approximately 380 yards, or 1140 feet, over twice the suggested maximum buffer. The AR15 fires a .223 caliber bullet at over 3000 fps, and I have personally made lethal shots with this platform at 800 meters, or over 2600 feet, five times greater than the maximum buffer suggested. With these numbers in mind, I cannot fathom why the city would decrease the buffer zone to, at best 500 feet, and at worst 100 feet. This puts the grow op practically within rock throwing distance. We should also be aware that the people who would do things like this will have no issues prowling cars, doing home invasion robberies, and dealing marijuana to our children.

Lastly, what is having a marijuana grow operation within shouting distance of our homes going to do to our property values? The economy has already destroyed the values of our homes. If a grow op is allowed to be placed so close to residential areas, I fear that it will keep those areas from ever being able to recover.

In closing, if the council chooses, and let's be clear here, it is a choice. If you choose to allow a grow op under the current proposed regulations, you will be choosing to introduce something that is almost guaranteed to attract a violent criminal element to our neighborhoods. Please do not choose to place my family, and the families of the residents of Lake Stevens, in harm's way.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Bart Foutch', written in a cursive style.

Bart Foutch